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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEW MEXICO

FILED

UNITED STATES DISTRICT COURT
ALBUQUERQUE, NEW MEXICO

MAR 31 1999

VANCE H. SMITH, M.D., and DEBORAH P.
SMITH, R.N., RVT,

Plaintiffs,

-vs-

Robert March

CLERK

No. CIV 92-0641 LH/WWD

EASTERN NEW MEXICO MEDICAL CENTER,
ORSON TRELOAR, JOHN KIKER, EMMIT
JENNINGS, MIKE MCGUIRE, RICHARD
MOONEY, THOR STANGEBYE, KEVIN LOWE,
MATT FOSTER, and DONALD WENNER,

Defendants.

MEMORANDUM OPINION AND ORDER

THIS MATTER comes before the Court on Plaintiffs' Motion for Recusal (Docket No. 405), filed February 12, 1999. The Court, having considered the memoranda of the parties and the applicable law and otherwise being fully advised, finds the Motion is not well taken and will be **denied**.

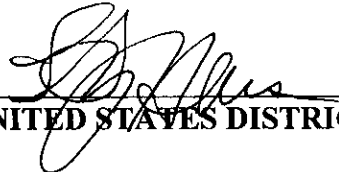
Plaintiffs, proceeding *pro se* when they brought this Motion, seek recusal on grounds that the Court's "two prior dispositive rulings against the Plaintiffs . . . will prevent them from receiving a fair disposition." (Mot. Recusal ¶ 5.) They also complain of the Court's disqualification of their trial counsel. *Pro se* pleadings must be liberally interpreted, *Haines v. Kerner*, 404 U.S. 519, 520 (1972), but the Court should not "assume the role of advocate." *Northington v. Jackson*, 973 F.2d 1518, 1521 (10th Cir. 1992)(citing *Hall v. Bellmon*, 935 F.2d 1106, 1110 (10th Cir. 1991)).

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Whether seeking recusal under 28 U.S.C. § 144 or 28 U.S.C. § 455, allegations that the judge has made prior adverse rulings against a party are insufficient to require recusal. *Willner v. University of Kan.*, 848 F.2d 1023, 1028 (10th Cir. 1988)(citing *Hamm v. Members of the Bd. of Regents*, 708 F.2d 647, 651 (11th Cir. 1983)); *United States v. Cooley*, 1 F.3d 985, 994 (10th Cir. 1993). Furthermore, "there is as much obligation for a judge not to recuse when there is no occasion for him to do so as there is for him to do so when there is." *Cooley*, 1 F.3d at 994 (quoting *Hinman v. Rogers*, 831 F.2d 937, 939 (10th Cir. 1987)). There being no showing of personal prejudice or bias, the Motion must be denied. See *Knoll v. Socony Mobil Oil. Co.*, 369 F.2d 425, 430 (10th Cir. 1966), *overruled on other grounds by Liberty Nat. Bank & Trust Co. v. Acme Tool Div. of Rucker Co.*, 540 F.2d 1375 (10th Cir.1976).

IT IS HEREBY ORDERED that Plaintiffs' Motion for Recusal (Docket No. 405), filed February 12, 1999, is **DENIED**.

IT IS FURTHER ORDERED that this matter will come on for a **Status Conference** on **Thursday, April 15, 1999, at 1:15 p.m.**, United States Courthouse, 333 Lomas NW, Chamber's Conference Room, Suite 660.


UNITED STATES DISTRICT JUDGE